

§518.2

(y) Title 10, United States Code, section 2328, "Release of Technical Data under Freedom of Information Act: Recovery of Costs".

(z) Title 10, United States Code, section 130, "Authority to Withhold from Public Disclosure Certain Technical Data."

(aa) Title 10, United States Code, section 2320-2321, "Rights in Technical Data."

(bb) Title 10, United States Code, section 1102, "Confidentiality of Medical Quality Records: Qualified Immunity Participants."

(cc) DoD Federal Acquisition Regulation Supplement (DFARS), subpart 227.4, "Technical Data, Other Data, Computer Software and Copyrights," October 28, 1988.

(dd) Executive Order 12600, "Predisclosure Procedures for Confidential Commercial Information," June 23, 1987.

(ee) Title 31, United States Code, section 3717, "Interest and Penalty on Claims."

(ff) Title 5, United States Code, section 552a, as amended, "The Privacy Act of 1974."

(gg) DoD 5000.12-M, "DoD Manual for Standard Data Elements," October 1986, authorized by DoD Instruction 5000.12, July 1989.

(hh) DoD Instruction 5400.10, "OSD Implementation of DoD Freedom of Information Act Program," January 24, 1991.

(ii) Title 32, Code of Federal Regulations, part 518, The Army Freedom of Information Act Program.

(jj) Title 10, United States Code, section 128, "Physical Protection of Special Nuclear Material: Limitation on Dissemination of Unclassified Information".

(kk) Public Law 101-189, National Defense Authorization Act, November 1989, 103 Stat. 1352.

§518.2 References (Army).

(a) Required publications.¹

(1) AR 1-20 (Legislative Liaison) (cited in §§518.44 and 518.46).

¹All publications and forms referenced in this section are available from National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

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(2) AR 20-1 (Inspector General Activities and Procedures) (cited in §§518.4, 518.58 and appendix B).

(3) AR 25-1 (The Army Information Resource Management Program) (cited in §§518.3 and 518.29).

(4) AR 25-9 (Army Data Management and Standards Program) (cited in §518.98).

(5) AR 25-400-2 (The Modern Army Recordkeeping System (MARKS)) (cited in §§518.30, 518.51, 518.66, and appendix B).

(6) AR 27-20 (Claims) (cited in §518.4 and 518.51).

(7) AR 36-2 (Processing Internal and External Audit Reports and Follow-up on Findings and Recommendations) (cited in §518.4).

(8) AR 40-66 (Medical Record and Quality Assurance Administration) (cited in §518.17).

(9) AR 40-400 (Patient Administration) (cited in §518.4).

(10) AR 25-11 (Record Communications) (cited in §518.46).

(11) AR 195-2 (Criminal Investigation Activities) (cited in §§519.4-519.56).

(12) AR 340-21 (The Army Privacy Program) (cited in §§518.22, 518.37 and 518.56).

(13) AR 360-5 (Public Information) (cited in §§518.4 and 518.54).

(14) AR 380-5 (Department of the Army Information Security Program) (cited in §§518.4, 518.37, 518.53 and 518.56).

(15) AR 530-1 (Operations Security (OPSEC)) (cited in §§518.53 and 518.54).

(16) AR 600-85 (Alcohol and Drug Abuse Prevention and Control Program) (cited in §518.4 and 518.54).

(b) Related publications. A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

(1) AR 5-13 (Installation Management and Organization).

(2) AR 10-series (Organization and Functions).

(3) AR 25-3 (Army Life Cycle Management of Information Systems).

(4) AR 27-10 (Military Justice).

(5) AR 27-40 (Litigation).

(6) AR 27-60 (Patents, Inventions, and Copyrights).

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(7) AR 60-20 (Army and Air Force Exchange Service (AAFES) Operating Policies) (AFR 147-14).

(8) AR 70-31 (Standards for Technical Reporting).

(9) AR 190-45 (Military Police Law Enforcement Reporting).

(10) AR 380-10 (Department of the Army Policy for Disclosure of Information, Visits, and Accreditation of Foreign Nationals (U)).

(11) AR 381-45 (Investigative Records Repository (IRR)).

(12) AR 385-40 (Accident Reporting and Records).

(13) AR 640-10 (Individual Military Personnel Records).

(14) DA Pam 25-30 (Consolidated Index of Army Publications and Blank Forms).

(15) DA Pam 25-51 (The Army Privacy Program-Systems Notices and Exemption Rules).

(16) DA Pam 385-95 (Aircraft Accident Investigation and Reporting).

(17) DoD 4500.11-PH (Defense Privacy Board Advisory Opinions).

(18) Title 10, United States Code, section 128, "Physical Protection of Special Nuclear Material: Limitation on Dissemination of Unclassified Information".

(c) Prescribed forms.

(1) DA Form 4948-R (Freedom of Information Act (FOIA/Operations Security) (OPSEC) Desktop Guide) (prescribed in §§518.50 and 518.49).

(2) DA Label 87 (For Official Use Only Cover Sheet) (prescribed in §§518.41 and 518.44).

(3) DD Form 2086 (Record of Freedom of Information (FOI) Processing Cost) (prescribed in §518.81).

(4) DD Form 2086-1 (Record of Freedom of Information (FOI) Processing Cost for Technical Data) (prescribed in §518.92a).

PURPOSE AND APPLICABILITY

§518.3 Purpose.

The purpose of this Regulation is to provide policies and procedures for the Department of Defense (DoD) implementation of the Freedom of Information Act and DoD Directive 5400.7 (references (a) and (b)) and to promote uniformity in the DoD Freedom of Information Act (FOIA) Program. This

Army regulation implements provisions for access and release of information from all Army information systems (automated and manual) in support of the Information Resources Management Program (AR 25-1).

§518.4 Applicability.

(a) This Regulation applies to the Office of the Secretary of Defense (OSD), which includes for the purpose of this Regulation the Joint Staff, Unified Commands, the Military Departments, the Defense Agencies, and the DoD Field Activities (hereafter referred to as "DoD Components"), and takes precedence over all Component regulations that supplement the DoD FOIA Program. A list of DoD Components is at enclosure 1 (appendix G).

(b) The National Security Agency records are subject to the provisions of this Regulation, only to the extent the records are not exempt under Public Law 86-36 (reference (c)).

(c) This part applies to—

(1) Active Army.

(2) Army National Guard.

(3) U.S. Army Reserve.

(4) Organizations for which the Department of the Army (DA) is the Executive Agent.

(d) This regulation governs written FOIA requests from members of the public. It does not preclude release of personnel or other records to agencies or individuals in the Federal Government for use in official work. Section 518.52(a) gives procedures for release of personnel information to Government agencies outside DOD.

(e) Soldiers and civilian employees of the Department of the Army may, as private citizens, request DA or other agencies' records under the FOIA. They must prepare requests at their own expense and on their own time. They may not use Government equipment, supplies, or postage to prepare personal FOIA requests. It is not necessary for soldiers or civilian employees to go through the chain of command to request information under the FOIA.

(f) Requests for DA records processed under the FOIA may be denied only in accordance with the FOIA (5 U.S.C. 552(b)), as implemented by this regulation. Guidance on the applicability of the FOIA is also found in the Federal